



REPUBLIC OF KENYA



**Kiprono v Republic (Criminal Revision E017 of 2023)
[2024] KEHC 3483 (KLR) (11 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3483 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E017 OF 2023
RN NYAKUNDI, J
APRIL 11, 2024**

BETWEEN

GERSHON KIPRONO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offence of stealing contrary to section 268(1) as read with section 275 of the Penal Code. The particulars are that on 16th September, 2022, at Kapseret location in Kapseret sub-county within Uasin Gishu County, the applicant jointly with another in court stole sub massive pump valued at Kshs. 21,000/= the property of Sylvia Tampnai Mose.
2. The applicants pleaded guilty to the offence on 26th September, 2022 before Hon. R. Odenyo and as a consequence, he was convicted on his own plea of guilty and sentenced to serve three years imprisonment.
3. The applicant has approached this court pursuant to sections 357,362,364& 382 of the Criminal Procedure Code as construed with Article 50(2) (p) & (q) as conjunctively read with Article 50(6) (a)&(b) of the Constitution.
4. The applicant seeks sentence review. That he may serve a non-custodial sentence. The probation officer filed a report dated 27th November, 2023. The said report is non-responsive. The probation officer stated that the applicant declined to be interviewed.
5. I have however taken note of a probation report was filed earlier on in 13th February, 2023, where the complainant declined his release on probation. The complainant is the applicant's mother who felt at the time that her life could be in danger. That the applicant was a repeat offender.



6. Unfortunately, this time round the applicant declined to be interviewed. The report could have benefited the applicant especially in such an offence and given that he has served a substantial part of his sentence. The report could have established whether the complainant fears for her life.. The application therefore lacks merit and it is dismissed pursuant to section 382 of the CPC. For avoidance of doubt, the applicants by dint of the trial magistrate’s order shall serve the full custodial sentence.

SIGNED, DATE AND DELIVERED AT ELDORET THIS 11TH DAY OF APRIL 2024.

.....

R. NYAKUNDI
JUDGE

